

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-31 are currently pending. Claim 31 is hereby added. Claims 1, 8, 17, 23 and 31 are independent. Claims 1, 8, 17 and 23 are hereby amended. No new matter has been introduced. Support for this amendment is provided throughout the Specification as originally filed.

Changes to the claims are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

II. REJECTIONS UNDER 35 U.S.C. §103

Claims 1, 3, 4, 17 and 19 were rejected under 35 U.S.C. §103 as allegedly unpatentable over U.S. Patent No. 7,013,477 to Nakamura et al. (hereinafter, merely “Nakamura”) in view of U.S. Patent No. 5,838,314 to Neel et al. (hereinafter, merely “Neel”);

Claims 2 and 18 were rejected under 35 U.S.C. §103 as allegedly unpatentable over Nakamura and Neel and further in view of U.S. Patent Application Publication No. 2002/0019769 of Barritz et al. (hereinafter, merely “Barritz”);

Claims 5 and 20 were rejected under 35 U.S.C. §103 as allegedly unpatentable over Nakamura and Neel and further in view of U.S. Patent Application Publication No. 2003/0192060 of Levy;

Claims 6, 7, 21 and 22 were rejected under 35 U.S.C. §103 as allegedly unpatentable over Nakamura and Neel and further in view of U.S. Patent No. 6,285,818 of Suito et al. (hereinafter, merely “Suito”);

Claims 8, 9, 13, 23 and 24 were rejected under 35 U.S.C. §103 as allegedly unpatentable over Nakamura in view of U.S. Patent No. 6,973,669 to Daniels;

Claims 10-12 and 25-27 were rejected under 35 U.S.C. §103 as allegedly unpatentable over Nakamura and Daniels and further in view of U.S. Patent No. 6,282,713 to Kitsukawa et al. (hereinafter, merely “Kitsukawa”);

Claims 14 and 28 were rejected under 35 U.S.C. §103 as allegedly unpatentable over Nakamura, Daniels and Levy; and

Claims 15, 16, 29 and 30 20 were rejected under 35 U.S.C. §103 as allegedly unpatentable over Nakamura, Daniels and Suito.

Applicants respectfully traverse these rejections.

Independent claim 31 is representative and recites, *inter alia*:

“receiving sequential broadcast information having a first sequence of broadcast portions and a second sequence of commercial portions, the commercial portions separating the broadcast portions;

...

storing the sequential broadcast information in the sequence as received;

...

reproducing the stored broadcast information in a changed sequence by first reproducing all the commercial portions in the second sequence; and

...

subsequently reproducing broadcast portions in the first sequence,

...

wherein the commercial portions are not reproduced at the same time as the broadcast portions.” (emphasis added)

As understood by Applicants, Nakamura discloses, in relevant part, a device that detects and stores a highlight scene of a broadcast program and also includes a commercial message (CM) detecting unit to detect a CM in a broadcast program. The Nakamura device reproduces the stored highlight scene instead of the CM in a broadcast program. Col. 5, lines 40-54; *See also*, col. 6, lines 6-21 and col. 7, lines 23-30. Thus, it is the intent of Nakamura that the CM in a broadcast program is not reproduced. That is, in Nakamura, the viewer does not view the commercials. Further, there is no suggestion in Nakamura of altering the sequence of the broadcast CM and broadcast program. That is, in Nakamura the program is viewed sequentially as broadcast and, when a CM is detected in the sequential broadcast, a highlight scene is reproduced instead of the CM. Thus, the sequence of broadcast program and CM is not altered.

As understood by Applicants, Neel discloses, in relevant part, a device that enables a user to choose to watch a series of commercials as an alternative to paying for a pay-per-view broadcast (video) program. However, in Neel, the commercials are stored separately from the broadcast program. That is, when the user chooses to watch the commercials, those commercial are selected from commercials stored separately from the desired broadcast program. Moreover, the commercials are not part of the broadcast program as received. That is, a selection of commercials is provided that were not broadcast with the video program. Hence, the system provides commercials from the commercial database that may be selected, for example, based

upon user preferences. In Neel, the commercials are separate from the broadcast program and the user can choose (or not choose) to view the commercials.

As understood by applicants, Daniels provides commercials that are selectable by the user. The commercial is displayed along with the television program. The viewer can choose to pause the television program and view the commercial. Thus, in Daniels, the commercial and the program are reproduced at the same time and the viewer can choose (or not choose) to view the commercials.

In contrast, claim 31 recites, “receiving sequential broadcast information having a first sequence of broadcast portions and a second sequence of commercial portions, the commercial portions separating the broadcast portions . . . storing the sequential broadcast information in the sequence as received . . . reproducing the stored broadcast information in a changed sequence by first reproducing all the commercial portions in the second sequence; and subsequently reproducing broadcast portions in the first sequence, wherein the commercial portions are not reproduced at the same time as the broadcast portions.”

The broadcast information is a sequential broadcast and includes a sequence of broadcast portions separated by commercial portions. This a standard commercial program having portions of the program interrupted by commercials. The program portions have a sequence and the commercials have a sequence within those program portions. The entire broadcast information, including the commercial information, is stored in the sequence received. The commercial portions are not “culled out” and stored separately.

During reproduction of the broadcast information, the sequence of the original sequential broadcast (and as stored) is altered. The controller causes reproduction of the stored data so all

of the commercial portions are reproduced in the sequence as originally broadcast. After reproduction of the commercial portions are all completed, the program portions are reproduced in the sequence that they were originally received. That is, the broadcast information (including commercial information) is stored sequentially.

The Office Action points to Neel col. 14, line 49 to col. 15, line 22 and FIGS. 7A-7C for the claim 31 element, “reproducing the stored broadcast information in a changed sequence by first reproducing all the commercial portions in the second sequence; and subsequently reproducing broadcast portions in the first sequence.” However, at that location, Neel only discloses that a viewer can choose to watch a commercial as an alternative to paying for a pay-per-view program. There is no suggestion in Neel the pay-per-view program was broadcast with commercials interrupting the program portions and the commercials are drawn from that broadcast. Further, Neel states the commercials are stored separately and selected for reproduction. The pay-per-view program is then reproduced from a storage of those programs.

The Office Action also points to Neel, col. 2, lines 41-48 for the claim 31 element, “reproducing the stored broadcast information in a changed sequence by first reproducing all the commercial portions in the second sequence; and subsequently reproducing broadcast portions in the first sequence.” However, at that location, Neel is disclosing only a result of an earlier patent, U.S. Patent No. 5,027,400 to Baji. In Baji, the commercials are, as is Neel, not part of a broadcast program having a commercial portions and program portions. Baji, comprises an advertisement data base for effecting advertisement processing and a program broadcast apparatus for appropriately accessing the data base and a program data base so as to insert an advertisement desired by the subscriber into a program desired by the subscriber, and an

advertisement transmit apparatus. Baji, col. 3, lines 40-55. Neel states (col. 2, lines 41-48) Neel's invention is distinguished from Baji in that Baji "does not contemplate payment alternatives." Thus, both Neel and Baji have a database of advertisements separate and distinct from the program portions. The present invention is distinguished from Neel because the present invention operates on a broadcast information having commercial portions intermingled with program portions and the broadcast information is stored as received so there is no separate database of commercial portions and program portions.

Moreover, neither Nakamura, Neel nor Daniels requires the viewer to watch the commercials. Nakamura affirmatively filters the commercials and provides, instead, a highlight scene. Neel allows the viewer to choose whether to watch commercials in lieu of paying for the program. Daniels allows the viewer to choose whether to watch a commercial provided on an insert of the program being viewed.

Suito, Levy and Kitsukawa do not add the elements missing from Nakamura, Neel and Daniels.

Applicants respectfully request withdrawal of the rejection of claim 31.

For reasons similar or somewhat similar to those described above with regard to independent claim 31, independent claims 1, 8, 17 and 23 are also believed to be patentable.

Moreover, it is part of Applicants' invention to combine the feature of identifying commercial portions when storing received broadcast information with altering the sequence of commercial portions and program portions when subsequently reproducing the stored

information. This process of receiving, identifying, storing in the sequence received and altering the sequence on reproduction provides an advantage of having the commercial broadcast information reproduced sequentially followed by the other stored broadcast information. Publ. App. par. [0088].

It is the Applicants whom have recognized, and claim, the combination of features of reordering the reproduction of broadcast programming containing intermingled commercials received. The inventive device has the advantages to avoid content that ends up being reduced in interest to the user due to the insertion of commercial broadcasts in the middle, for example, of movies. The viewing becomes possible without interrupting the broadcast and therefore user dissatisfaction over commercial broadcasts can be reduced. Also, a different method of viewing of commercial broadcasts which are ordinarily boring is provided to the user and, at the same time, the commercial broadcasts are positively watched in comparison with the case where commercial broadcasts are unnaturally inserting not along with the flow of the broadcast contents. Therefore, the effect of the commercial broadcasts as advertisements can be raised. Publ. App. par. [0088].

Applicants respectfully request withdrawal of the 103(a) rejection.

CONCLUSION


Claims 1-31 are in condition for allowance. In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference, or references, it is respectfully requested that the Examiner specifically indicate those portions of the reference, or references, providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By: 
Paul A. Levy
Reg. No. 45,748
(212) 588-0800